



*State of California*

## **OFFICE OF THE INSPECTOR GENERAL**

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**FOR IMMEDIATE RELEASE**

**July 21, 2005**

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**Inspector General says the state's adult parole board has improved the parole revocation process, but is still not complying with the law governing "lifer" hearings**

In an audit released today, the Office of the Inspector General reported that the Board of Parole Hearings has improved the parole revocation process, resulting in fewer delays and enhanced productivity. However, the board has not addressed long-standing problems with the parole process for inmates serving life terms. The Board of Parole Hearings—the entity responsible under state law for setting parole dates for inmates sentenced to life terms with the possibility of parole—uses an antiquated and ineffective process to determine which of the thousands of so-called “lifer” inmates in the state’s prisons are due for hearings.

As a result, said Inspector General Matthew Cate, “the board has no way of ensuring that all hearings are held within the time limits required by law.”

The failure of the board to hold timely hearings for life inmates—those sentenced to indeterminate terms, such as 25 years to life—is also the subject of a lawsuit against the state (*Rutherford*). That case was granted class action certification in November 2004 on behalf of “all prisoners serving indeterminate terms of life with the possibility of parole dates without receiving parole hearings within the time required” by California Penal Code section 3041(a).

By law, the Board of Parole Hearings, formerly the Board of Prison Terms, must hold a parole-consideration hearing at least one year before the date an indeterminate sentence inmate becomes

eligible for parole. Inmates sentenced under the indeterminate-sentencing law become eligible for parole consideration after serving the minimum prison term specified by state law for the crime committed. The board may either set a parole release date at the initial hearing or may set a subsequent hearing up to five years in the future to reconsider the matter.

Although the board has the ability to determine from the records the date by which an individual inmate is mandated to receive a hearing, it lacks the technological capacity to collectively identify inmates whose mandatory hearing dates are approaching. Instead, the board relies on an antiquated manual system to schedule hearings. As a consequence, many of the hearings are months overdue.

The problem is worsening because the sheer volume of hearings required for lifer inmates has increased dramatically in recent years. Between 1990 and 2004, the number of lifer inmates in the state prison system more than tripled from 8,153 to 27,375, presenting an ever-increasing challenge to the board's ability to handle its hearing workload.

In addition, the audit found that the board's backlog of overdue indeterminate sentence hearings, a problem cited in the previous audits, has worsened instead of improved, increasing by nearly 15 percent, from 1,400 in December 2001 to 1,607 as of March 31, 2005. The audit found that a policy adopted by the board that allows inmates to postpone hearings for any reason 10 or more days before the scheduled hearing dates has contributed to a 44 percent increase in postponements and impeded efforts to reduce the hearing backlog.

Moreover, the Office of the Inspector General found that in its official reports, the board has significantly overstated the number of indeterminate sentence hearings it held in 2002, 2003, and 2004. "The board's figures actually represent hearings that were merely *scheduled*, rather than actually *conducted*," said Cate. "The number of hearings actually conducted during that three-year period was nearly 4,000 fewer than the 13,874 the board reported it conducted."

The issue of lifer hearings is one of several findings reported today in the Office of the Inspector General's 2005 Accountability Audit of the Board of Prison Terms. The audit is the second of three Accountability Audits scheduled for release by the Office of the Inspector General in 2005. The Accountability Audits assess the progress of the state's main correctional entities in implementing previous recommendations from audits conducted by the Office of the Inspector General over the past several years. The first Accountability Audit, which covered the California Youth Authority, was released in January. The third Accountability Audit will cover the California Department of

Corrections, which has been renamed Adult Operations and Adult Programs within the newly created Department of Corrections and Rehabilitation.

The Accountability Audit of the Board of Prison Terms determined that the board has fully or substantially implemented fewer than half of the 26 recommendations resulting from audits conducted by the Office of the Inspector General in April 2002 and January 2003.

Although the Inspector General found that the board has several remaining deficiencies, the audit found the board has made progress in some areas of its responsibilities.

On the positive side, the Inspector General noted that the Department of Corrections and Rehabilitation (formerly the Youth and Adult Correctional Agency) has changed the parole revocation process to eliminate delays and address problems of coordination between the board and the former Department of Corrections. The parole revocation process includes holding hearings to determine whether individuals accused of violating their parole terms should be returned to custody and involves tracking thousands of cases annually to ensure that suspected parole violators receive timely hearings in accordance with state law. Changes in the parole revocation process are embodied in a remedial plan resulting from the *Valdivia v. Schwarzenegger* class action lawsuit, which is in the final stages of implementation.

The Inspector General found in addition that the board has improved the productivity of its staff of deputy commissioners by improving supervision and increasing the number of scheduled hearings assigned to its deputy commissioners. However, according to the 2005 Accountability Audit, the board's ability to evaluate the number of deputy commissioners it needs to carry out its mandated functions remains hampered by its failure to implement a time management system that accurately records the time deputy commissioners spend on those activities.

The full text of the Inspector General's Accountability Audit on the Board of Prison Terms can be viewed and downloaded from the Office of the Inspector General's web site at <http://www.oig.ca.gov/>. To view the audit on the web site, click on the report title, "Accountability Audit: Review of the Audits of the Board of Prison Terms, 2002-2003," on the home page.

The Office of the Inspector General—the watchdog for California's correctional system—is an independent state agency responsible for oversight of the California Department of Corrections and Rehabilitation and its various divisions, including the Board of Parole Hearings. The office carries out its mission by auditing and investigating correctional organizations under the Department of

Corrections and Rehabilitation to uncover criminal conduct, administrative wrongdoing, poor management practices, waste, fraud, and abuses by management, supervisors, and staff. The Accountability Audit of the Board of Prison terms was conducted under the authority provided to the Inspector General by California Penal Code section 6126.

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